

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 10412 of 2002

Between:

B.Saraswati, W/o late B.Sangeetharao,
Excise, Bapatla
Guntur District.

..... PETITIONER

AND

- 1 Superintendent, Prohibition and Excise
Guntur.
- 2 The Audit Officer,
LF, Guntur.
- 3 District Treasury Officer,
Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may please to issue a direction more particularly in the nature of Writ of Mandamus or any other writ declaring the action of the 1st Respondent Superintendent, Prohibition and Excise, Guntur in issuing notice dated 27-2-2002 bearing R.C.No. 60/99/C2 demanding to refund the amount of Rs. 35,750/- within 30 days from the date of receipt of the notice is illegal, arbitrary, contrary to the law, and violative of article 14 of Constitution of India consequently to set aside the same by directing the 1st Respondent not to collect the amount in the interest of justice.

Counsel for the Petitioner: MR.K.K.CHAKRAVARTHY

Counsel for the Respondents: GP FOR PROHIBITION

The Court made the following :

ORDER:

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The petitioner is a widow of an Excise constable who died in harness. As per the relevant rules governing payment of post retirement benefits, she was paid among others gratuity amount. However, by impugned notice dated 27.02.2002, she was asked to refund a sum of Rs.35,750/-, assailing which the present writ petition is filed.

The dispute raised in this writ petition is in relation to the service of the petitioner's husband. In that view of the matter as held by the Constitution Bench of seven Judges of the Supreme Court in **L.Chadra Kumar v. Union of India** this Court lacks initial jurisdiction, though a review against the judgment of the A.P.State Tribunal is maintainable. Any order passed at this stage would be one without jurisdiction and void.

Therefore, giving liberty to the petitioner to seek redressal initially before appropriate Tribunal, the writ petition is dismissed as not maintainable. No costs.

(V.V.S.RAO, J)

05.07.2005

vs

To

- 1 Superintendent, Prohibition and Excise
Guntur.
- 2 The Audit Officer,
LF, Guntur.
- 3 District Treasury Officer,
Guntur.
- 4 Two CCs to the G.P for Prohibition and Excise, High Court of A.P.,
Hyderabad(O.U.T).
- 5 2 CD copies